

Appl. No. 09/683,254
Response Dated 1/13/2004
Reply to Office action of October 14, 2003

Remarks

This case has been carefully reviewed in light of the Office Action dated October 14, 2003, wherein claims 3 and 17 have been objected to, claims 4-6, 8, 9, 11 and 17 are rejected under 35 U.S.C. §112, second paragraph, and claims 1, 3, 4, 7-13, and 17-22 are rejected under 35 U.S.C. § 102 (e) over Aksit et al (U.S. Pat. No. 6435514, hereinafter "Aksit").

Claims 1, 8, 19-51 have been cancelled, claim 2 had been previously canceled, and claims 23-51 had been previously withdrawn pursuant to a requirement for restriction (as noted in the present Office Action). Claims 3-7 and 9-19 remain pending in this application. Reconsideration of the rejections in light of the amendments and the following remarks is respectfully requested.

Objections

Claims 3 and 17 have been amended appropriately in response to the Examiner's objection. The applicants thank the Examiner for pointing out the informalities and respectfully submit that the claims 3 and 17 are now in a proper form.

Rejections under 35 U.S.C. § 112

Claims 4-6, 8, 9, 11 and 17 were rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter that the applicant regards as the invention.

Applicants amended the claim 4 to clarify that the displacement apparatus recited in claim 4 is a further limitation of one of the displacement apparatuses previously recited in claim 1. Further, the Applicants have amended the claim 4 to include all the limitations of claim 1. Claim 6 depends from claim 4.

Applicants have amended claim 5 in a similar manner as claim 4, and Applicants have left claim 6 depending from claim 4.

Claim 8 has been cancelled.

Claims 9 and 11 have each been amended to positively recite multiple seal carriers.

Claim 17 has been amended appropriately to clarify that the turbine housing is a part of the turbomachinery.

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Therefore Applicants respectfully submit that the remaining claims, particularly as amended, are in compliance with 35 U.S.C. § 112.

Rejections under 35 U.S.C. § 102(e)

Applicants respectfully traverse the rejection of claims 1, 3, 4, 7-13 and 17-19 under 35 USC § 102 (e) as being anticipated by Aksit. Applicants respectfully traverse these rejections.

Applicants have cancelled claim 1 and incorporated all the elements of claim into claim 4. Applicants submit that Aksit does not disclose the amended claim 4 recitations of (with emphasis added):

a displacement apparatus coupled to said seal carrier for positioning said seal to control said flow in said fluid path, wherein said displacement apparatus is selected from the group consisting of an actuator, a return device, and combinations thereof, and wherein **said displacement apparatus** selected from the group consisting of an actuator, a return device, and combinations thereof **is further selected from the group consisting of bellows, rods, cams, hydraulic cylinders, pneumatic devices, piezoelectric devices, solenoids and combinations thereof.**

Claims 3 and 7-12 depend from claim 4 and are therefore additionally believed to be in condition for allowance.

Claim 13 has been rewritten in independent form to include the limitations of currently cancelled claim 1 and specify that the drive system comprises a motor. Applicants submit that this recitation is not disclosed in Aksit.

Claims 17-18 have been amended to depend from claim 13 and are therefore additionally believed to be in condition for allowance.

Indication of Allowable Subject Matter

The Examiner stated that claims 5 and 6 would be allowable if rewritten to overcome the rejections(s) under 35 U.S.C. § 112, second paragraph and to include the limitations of the intervening base claims.

Claim 5 has been amended in response to the Examiner's suggestion.

Claim 6 depends from amended claim 4 which Applicants believe to be allowable for the reason discussed above.

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The Examiner stat d that claims 14-16 would be allowable if rewritten to include the limitations of the intervening base claims. These claims 14-16 depend from claim 13, believed to be allowable for the reason stated above, and are accordingly believed to be allowable.

Summary

In view of the foregoing, Applicant respectfully requests that a timely Notice of Allowance be issued in this case.

Should the Examiner believe that anything further is needed to place the application in even better condition for allowance, the Examiner is requested to contact Applicant's undersigned representative at the telephone number below.

Respectfully submitted,

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